



Nebraska Department of Environmental Quality

Presentation to Heritage Local Siting Committee

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Alda, NE

Regulatory Interaction



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Applicable Programs

1. Air Quality
 - Title 129 – Air Quality Regulations
2. Resource Conservation and Recovery (RCRA)
 - Title 128 – Hazardous Waste Regulations
3. Water Quality
 - Title 119 – National Pollutant Discharge Elimination System
 - Title 123 – Design, Operation, and Maintenance of Wastewater Works

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NDEQ Interactions

Each program will have three primary methods of interacting with Heritage:

1. Permitting,
2. Compliance Verification, and
3. Outreach and Assistance

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Air Quality Permitting

- Based on "Potential to Emit"
- Construction Permits
 - Project driven
 - State and Federal
- Operating Permits
 - All operations at facility
 - All applicable requirements
 - State and Federal

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Air Construction Permits

- State Permits
 - Ensure protection of National Ambient Air Quality Standards
 - Ambient air - Air outside of buildings to which the general public has access
 - Requirements vary state to state
- Federal Permits
 - Prevention of Significant Deterioration
 - Requirements more uniform between states
 - Much more involved

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Air Operating Permits

- Federal Permits
 - a.k.a. Class I, Major, or Title V
- State Permits
 - Class II Operating Permits in Nebraska
 - Allows source to avoid Federal Operating Permit

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Air Quality Compliance Verification

- Compliance verification consists of periodic facility inspections
 - Entrance and Exit interviews
 - Records review
 - Visual inspection of all emission units
- Inspections are random and are unannounced
 - Frequency will depend on type and quantity of air pollutants emitted.
 - In response to complaints
 - In response to records and reports

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RCRA Permitting

- This facility qualifies as a commercial hazardous waste management facility
- Permit duration is 5 years
- Contains operational and post-closure (30 years) requirements

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RCRA Permitting

- Requirements for operation and post-closure
 - Specifies what can be treated
 - Financial assurance
 - Monitoring and recordkeeping
- Engineering and geologic review of all plans
- 2 Parts
 - Part I (NDEQ)
 - Part II (EPA)
- No new local siting

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RCRA Compliance Verification

- 3 Treatment Storage Disposal Facilities (TSDF) in Nebraska and 80 Large Quantity Generators (LQGs)
 - TSDFs inspected annually
 - LQGs inspected every four years

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RCRA Compliance Verification

- Compliance verification consists of periodic facility inspections
 - Entrance and Exit interviews
 - Records review
 - Visual inspection of all emission units
- Inspections are random and are unannounced
 - Annual inspections for Heritage
 - In response to complaints
 - In response to records and reports

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Water Permitting

- NPDES Construction Stormwater General Permit
 - Required for land disturbances of 1 acre or more
- NPDES Industrial Stormwater General Permit
 - Required for a commercial hazardous waste management facility
- NPDES Discharge Permit
 - Based on the Effluent Limitation Guideline (ELG) at 40 CFR 457 and water quality standards. Includes air pollution control scrubber blow-down.

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Water Permitting

- Meeting and ELG and water quality standards require treatment
- Wastewater treatment systems must be designed by professional engineers registered to practice in the State of Nebraska
- Systems must be permitted by the NDEQ Technical Assistance Unit

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Water Compliance

- Construction Stormwater (CSW)
 - Requires implementation and monitoring of CSW best management practices. The CSW permit may be terminated after construction is completed.
- Industrial Stormwater (ISW)
 - Requires implementation and monitoring of ISW best management practices and benchmark sampling.
- NPDES Discharge Permit
 - Requires the treatment and sampling of wastewater to ELG or water quality standards.
- All NPDES permits are subject to NDEQ inspections.

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EPA Involvement

- Nebraska is part of USEPA Region 7
 - Nebraska, Iowa, Kansas, and Missouri
- EPA has federal oversight of Nebraska's environmental programs.
 - EPA conducts some inspections
 - Review and advise NDEQ

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Facility Responsibilities

- Build as described in applications
- Follow applicable rules and regulations
- Obtain proper permits
- Good recordkeeping and reporting
- Communicate issues to NDEQ

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Compliance

- Enforcement may occur as a result of:
 - Inspections
 - Public Complaints
 - Review of Records or Reports
- Enforcement action taken on a case by case basis.

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Compliance

Informal warning

- Used for minor issues that can be easily corrected (e.g. omission of a signature).
- Follow-up action is not typically necessary.

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Compliance

Letter of Warning (LOW)

- Requests compliance for issues that are minor but still substantive.
- Issues that are straightforward and can be reasonably resolved without further intervention.
 - Recordkeeping issues
 - Reporting issues

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Compliance

The LOW can:

- Describe the issues,
- Establish remedies, and
- Specify the timeframe for correcting issues

Fines and penalties are not typically associated with LOWs

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Compliance

Notice of Violation

- Used for more severe infractions
 - Spills
 - Exceeding limitations
 - Repeated infractions
- Can require
 - Monitoring
 - Testing
 - Physical Modifications
 - Permit revisions

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Compliance

Notice of Violation (cont.)

- If issues are not resolved:
 - Directors Order/Compliance Order/Consent Order
 - Referral to the Nebraska Attorney General's (AG's) office
 - Referral to the EPA
 - Criminal Action
 - Fines
 - \$10,000 per day per violation maximum (NDEQ)
 - \$500 – \$250,000 per day per violation maximum (EPA)
 - Supplemental Environmental Projects

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Compliance

Example #1

- Facility in western Nebraska
 - Took in several unpermitted hazardous wastes
 - Over 280 violations (Maximum potential penalty = \$2,800,000)
 - AG's office and Facility reached a settlement
 - \$80,000 in fines plus court costs
 - \$80,000 in supplemental environmental projects

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Compliance

Example #2

- Facility operated as a treatment storage and disposal facility (TSDF) without the appropriate post-closure permit.
- Required to:
 - Submit all necessary information within 60 days.
 - Meet all relevant fire and safety standards
 - Modify the application with more stringent more stringent groundwater monitoring standards
 - Increase financial assurance from \$1.4 million to \$2.6 million

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Compliance

Example #3

- Facility stored and processed waste containing more than 50 mg/kg of Polychlorinated-Biphenyls (PCBs) in violation of their permit.
- Also processed wastes with mercury levels that exceeded permitted levels
- Approximately 29 days of violations (\$290,000 maximum fine)

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Compliance

Example #3 (Cont.)

- Facility entered a Consent Order with NDEQ
 - 2 years of additional PCB sampling
 - New inventory management program
 - No fine

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Outreach and Assistance

- The NDEQ prefers to work with a facility when possible
 - Permit Assistance Visits
 - Compliance Assistance Visits

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Public Records

- Nebraska Administrative Code Title 115, Ch. 4
- Almost all documents the NDEQ receives are publicly available records
 - Permit Applications
 - Correspondence/Reports
 - Finalized Orders/Litigation
- Pending legal matters are confidential until complete

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Questions?

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